

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**CR No. 05-1849 JH**

**DANA JARVIS,**

**Defendant.**

**DEFENDANT JARVIS' NOTICE REGARDING Doc. 1397**

COMES NOW the Defendant DANA JARVIS, by and through co-counsel of record, Gary C. Mitchell and Jody Neal-Post, and hereby provides this Notice regarding Doc. 1397.

At Doc. 1397, page 12, the document states

in this case the Court found it necessary to admonish Jarvis's attorneys that their zealous advocacy had resulted in frivolous motions, and some motions bordering on the frivolous. *See*, Doc. 1236, and Doc. 1330, at 2-7.

“Defendant Jarvis’ Motion for Relief from Interference With His Right to Present His Defense Due to Continuous Irregularities in the Electronic Case Docketing, Including the Defendant’s Inaccessibility to His Own Docket” [Doc. 1226], was found by the Court to be frivolous, as it resulted from Jarvis’s attorneys’ lack of familiarity with the Court’s electronic filing system. As part of its Order resolving this Motion, the Court directed Jarvis’s counsel to attend a training session on use of the system. [Doc. 1236].

*Id.*

Mr. Jarvis notices the Court that the referenced Court Order in the citation, Doc. 1330, reversed Doc. 1236:

### **III. Jarvis' Motion to Reconsider**

Counsel for Jarvis has requested that the Court reconsider its Order denying them CJA fees for filing Jarvis' motion regarding docket irregularities that allegedly interfered with Jarvis' right to present his defense in this case. Because the Court concludes that Jarvis was entitled to notice and an opportunity to be heard prior to denial of CJA attorney's fees, the Court will grant Jarvis' motion to that extent. Therefore, attorneys Jody Neal-Post and Gary Mitchell will be permitted to file properly supported requests for compensation for preparing and filing Doc. No. 1226.

Doc. 1330, p. 4-5.

Page 7 of Doc. 1330 further shows the following:

(3) *Defendant Jarvis' Motion to Reconsider the Court's Order at Doc. 1236* [Doc. No. 1249] is **GRANTED**.

Respectfully submitted by:

***Electronically Filed***  
/s/  
***September 10, 2008***  
By \_\_\_\_\_  
Gary C. Mitchell, Esq.  
P.O. Box 2460  
Ruidoso, NM 88355-2460  
575.257.3070

/s/  
***September 10, 2008***  
By \_\_\_\_\_  
Jody Neal-Post, Esq.  
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Albuquerque, NM 87106  
505.268.7263

I hereby certify that a true and correct copy of the foregoing pleading was delivered to opposing counsel via the CM/ECF system this 10th<sup>th</sup> of September, 2008.

***Electronically Filed***

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Jody Neal-Post